

Exhibit 21



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

NETLIST, INC., (CAUSE NO. 2:21-CV-463-JRG
)
Plaintiff, ()
vs. ()
SAMSUNG ELECTRONICS CO., LTD., ()
et al., () MARSHALL, TEXAS
(MARCH 28, 2023
Defendants.) 9:00 A.M.

VOLUME 1

PRETRIAL CONFERENCE

BEFORE THE HONORABLE RODNEY GILSTRAP
UNITED STATES CHIEF DISTRICT JUDGE

SHAWN McROBERTS, RMR, CRR
100 E. HOUSTON STREET
MARSHALL, TEXAS 75670
(903) 923-8546
shawn_mcroberts@txed.uscourts.gov

A P P E A R A N C E S

FOR THE PLAINTIFF: IRELL & MANELLA, LLP -
LOS ANGELES
1800 AVENUE OF THE STARS
SUITE 900
LOS ANGELES, CA 90067-4276
(310) 203-7096
BY: MR. JASON SHEASBY
MS. YANAN ZHAO

McKOOL SMITH, P.C. - MARSHALL
104 E. HOUSTON ST., SUITE 300
MARSHALL, TEXAS 75670
(903) 923-9000
BY: MR. SAMUEL BAXTER
MS. JENNIFER TRUELOVE

FOR THE DEFENDANTS: FISH & RICHARDSON PC -
WASHINGTON DC
1000 MAINE AVE., SW
SUITE 1000
WASHINGTON, DC 20024
(202) 783-5070
BY: MR. RUFFIN CORDELL
MS. LAUREN DEGNAN
MR. BRIAN LIVEDALEN
MR. MATTHEW MOSTELLER
MR. MICHAEL McKEON

FISH & RICHARDSON, PC -
SAN DIEGO
12860 EL CAMINO REAL
SUITE 400
SAN DIEGO, CA 92130
(858) 678-5070
BY: DR. FRANCIS ALBERT

FISH & RICHARDSON, PC -
DALLAS
1717 MAIN STREET, SUITE 5000
DALLAS, TEXAS 75201
(214) 747-5070
BY: MR. MATTHEW COLVIN
MR. THOMAS REGER

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FISH & RICHARDSON, PC -
NEW YORK
7 TIMES SQUARE, 20TH FLOOR
NEW YORK, NEW YORK 10036
(404) 724-2764
BY: MS. KATHERINE REARDON

GILLAM & SMITH, LLP
303 SOUTH WASHINGTON AVENUE
MARSHALL, TEXAS 75670
(903) 934-8450
BY: MS. MELISSA SMITH

GILLAM & SMITH, LLP
102 N. COLLEGE, SUITE 800
TYLER, TEXAS 75702
(903) 934-8450
BY: MR. TRAVIS UNDERWOOD
MR. TOM GORHAM

OFFICIAL REPORTER: SHAWN M. McROBERTS, RMR, CRR
100 E. HOUSTON STREET
MARSHALL, TEXAS 75670
(903) 923-8546

1 THE COURT: Be seated, please.

2 This is the time set for pretrial matters before the
3 Court in the case of Netlist, Inc., versus Samsung Electronics
4 Company, Ltd., et al. This is Civil Case No. 2:21-CV-463.

5 The Court will ask for announcements at this time. What
6 says the Plaintiff?

7 MS. TRUELOVE: Good morning, Your Honor. Jennifer
8 Truelove here for Plaintiff. With me today at counsel table,
9 we have Mr. Jason Sheasby, Ms. Yanan Zhao, and Mr. Michael
10 Rosen.

11 We are ready to proceed.

12 THE COURT: Thank you.

13 What's the announcement for the Samsung Defendants?

14 MS. SMITH: Good morning, Your Honor. Melissa Smith
15 on behalf of Samsung.

16 I have many people in the courtroom that have joined me
17 today, but what I'd like to do is introduce Your Honor to
18 those that will be arguing today on behalf of Samsung in the
19 order of argument: Mr. Ruffin Cordell, Mr. Mike McKeon, Ms.
20 Lauren Degnan, Dr. Frank Albert, Mr. Brian Livedalen, Mr. Matt
21 Colvin, Mr. Matthew Mosteller, Mr. Tom Reger, and in the back
22 Ms. Katherine Reardon.

23 Your Honor, we also have a client representative in the
24 courtroom today, Mr. Michael Nguyen, and we're ready to
25 proceed, Your Honor.

1 that SK hynix does. And even in its briefing, it says that's
2 something that SK hynix HBM1 products do. They made no
3 showing, even slide 37 from -- that they just showed you from
4 Mr. Brogioli, there's nothing in his expert report -- oh,
5 excuse me, sir, Your Honor.

6 There's nothing in his -- in this slide or in his expert
7 report that ties this multi-drop thing to the specific models
8 that we identified in our *Arctic Cat* letter. It doesn't say
9 that. Again, the -- the briefing talks about HBM1, SK hynix
10 is not practicing the patents. We identified HBM2E, HBM3.
11 There's no indication of what limitations are not being
12 practiced by those products as is their burden to prove.

13 So I just wanted to make that point that this idea --
14 again, they're trying to shift the burden to us to prove that
15 the products practice. That's not our burden. We've
16 identified, given them a list. They've got to tell us why --
17 what limitations are missing. None of that has been talked
18 about today in the briefing or in the expert reports.

19 And with that, that's really the one point I wanted to
20 make for Your Honor.

21 THE COURT: All right. With regard to Documents 198
22 and 199, particularly with regard to Samsung's motion for
23 summary judgment of no damages prior to the filing of the
24 complaints, Document 198, the Court's persuaded that Samsung
25 met its burden under *Arctic Cat*, which is relatively low, and

1 shifted the burden to Netlist, and that burden having been
2 shifted, I'm persuaded that the result of the motion is as
3 follows:

4 With regard to the '506 Patent, I'm going to grant
5 Samsung's motion. I don't find any notice, actual or
6 constructive, prior to filing the original complaint on
7 December the 12th, 2021. Hence, I'm going to find as a matter
8 of summary judgment there are no damages prior to that date.

9 On the '339, it's the same ruling by the Court--no
10 damages prior to December the 12th, 2021. And it's the same
11 on the '918.

12 On the '054, Samsung asks for a finding via summary
13 judgment of no damages prior to filing the first amended
14 complaint on May the 3rd, 2022, but I am persuaded there's an
15 issue as to potential pre-suit damages prior to the filing of
16 the first amended complaint but not subsequent to the original
17 complaint.

18 So I'm going to grant summary judgment that there's no
19 pre-suit damages or there's no damages prior to the filing of
20 the original complaint on December the 12th, 2021, as to the
21 '054 Patent.

22 On the '060, there's no notice prior to filing the first
23 amended complaint on May the 3rd, 2022. So it's the Court's
24 ruling via summary judgment there are no damages prior to May
25 the 3rd, 2022, on the '060.

1 previously set on the 17th. Go back 10 days and you get to
2 the 7th. We're now on the 14th. Go back 10 days, and you get
3 to the 4th. So the first step in that process should be on
4 the 4th and not the 7th. The second one should follow, what
5 is it, three days later?

6 MR. CORDELL: Yes, sir.

7 THE COURT: That would put it on the 7th. So 4th
8 and the 7th instead of 7th and the 10th.

9 All right?

10 MR. CORDELL: Thank you.

11 MR. SHEASBY: Thank you, Your Honor.

12 THE COURT: All right, Counsel. We stand in recess
13 until tomorrow morning.

14 MR. SHEASBY: Thank you, Your Honor.

15 (The proceedings were concluded at 5:15 p.m.)
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